

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

Jon D. Gruber, individually and on behalf of all others similarly situated,

Plaintiff,

v.

Ryan R. Gilbertson; Michael L. Reger; Gabriel G. Claypool; Craig M. McKenzie; Timothy R. Brady; Terry H. Rust; Paul M. Cownie; David J. Fellon; Gary L. Alvord; James L. Thornton; James Randall Reger; Joseph Clark Reger, Individually and as Custodian for W. J. R. and J. M. R. (UTMA); Weldon W. Gilbertson, Individually and as Custodian for H.G. (UTMA), and as Trustee of the Ryan Gilbertson 2012 Family Irrevocable Trust; The Total Depth Foundation; Jessica C. Gilbertson (a/k/a Jessica Medlin); Kellie Tasto, as Custodian for H.G. (UTMA),

Defendants.

Case No. 1:16-cv-09727-WHP

**NOTICE OF MOTION AND MOTION  
TO DISMISS THE THIRD AMENDED  
CLASS ACTION COMPLAINT BY  
DEFENDANT JESSICA C.  
GILBERTSON N/K/A JESSICA GILLIN**

**NOTICE OF MOTION**

PLEASE TAKE NOTICE that a hearing will be held on June 4, 2019 at 11:00 a.m. before The Honorable William H. Pauley III in Courtroom 20B of the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, NY 10007 on the Motion to Dismiss the Third Amended Class Action Complaint by Defendant Jessica C. Gilbertson, now known as Jessica Gillin.

**MOTION**

Defendant Jessica Gillin moves the Court for an order dismissing Count III of the Third Amended Class Action Complaint under Federal Rule of Civil Procedure 12(b)(6), with

prejudice because it fails to state a Section 20A claim upon which relief can be granted and fails to plead fraud with particularity. This motion is based on all of the pleadings, files, records, and proceedings in this matter, the memorandum filed in support of the motion, and the arguments of counsel to be made at the hearing.

Respectfully Submitted,

**PARKER DANIELS KIBORT LLC**

Dated: April 22, 2019

/s/ Lori A. Johnson  
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*Attorney for Defendant Jessica Gillin  
(pro hac vice motion pending)*